

Introduced by Senator Padilla

February 12, 2010

An act to amend Section 281 of the Public Utilities Code, relating to telecommunications, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1040, as introduced, Padilla. Telecommunications universal service programs: California Advanced Services Fund.

The existing federal Telecommunications Act of 1996 establishes a program for the regulation of telecommunications to attain the goal of local competition, while implementing specific, predictable, and sufficient federal and state mechanisms to preserve and advance universal service, consistent with certain universal service principles. The universal service principles include the principle that consumers in all regions of the nation, including low-income consumers and those in rural, insular, and high-cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations, as defined. Existing law, until January 1, 2013, establishes the California Advanced Services Fund (CASF) in the State Treasury, and requires a surcharge, which is imposed by the commission and collected through retail telecommunications customers' bills, to be deposited in that fund. Existing law prohibits the commission from collecting more than

\$100,000,000 through the surcharge. Existing law requires the commission to develop, implement, and administer the CASF to provide for transfer payments to encourage deployment of high-quality advanced communications services to all Californians that will promote economic growth, job creation, and substantial social benefits of advanced information and communications technologies, as provided in a specified decision of the commission. Existing law requires the commission to conduct both a financial audit and a performance audit on the implementation and effectiveness of CASF and to report its findings to the Legislature by December 31, 2010.

This bill would extend the operation of CASF until January 1, 2018, and prohibit the commission from collecting more than \$225,000,000 through the CASF surcharge. The bill would require that not more than \$25,000,000 of the funds in CASF be encumbered during a fiscal year and would continuously appropriate \$25,000,000 per fiscal year to the commission, beginning with the fiscal year beginning July 1, 2010. The bill would require the commission to conduct an interim and final financial audit and interim and final performance audit on the implementation and effectiveness of CASF and, to report its interim findings by December 31, 2010, and its final findings by April 1, 2017.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 281 of the Public Utilities Code is
2 amended to read:

3 281. (a) The commission shall develop, implement, and
4 administer the California Advanced Services Fund to encourage
5 deployment of high-quality advanced communications services to
6 all Californians that will promote economic growth, job creation,
7 and the substantial social benefits of advanced information and
8 communications technologies, as provided in Decision 07-12-054
9 and Decision 09-07-020. *The commission shall establish the*
10 *following accounts within the fund:*

11 (1) *The Broadband Infrastructure Grant Account.*

12 (2) *The Rural and Urban Regional Broadband Consortia*
13 *Account.*

(3) *The Broadband Infrastructure Revolving Loan Funds Facility Account.*

(b) (1) All moneys collected by the surcharge authorized by the commission pursuant to that decision, whether collected before or after January 1, 2009, shall be transmitted to the commission pursuant to a schedule established by the commission. The commission shall transfer the moneys received to the Controller for deposit in the California Advanced Services Fund.

(2) All interest earned on moneys in the fund shall be deposited in the fund.

(3) The commission may not collect moneys, by imposing the surcharge described in paragraph (1) for deposit in the fund, in an amount that exceeds a total amount of ~~one hundred million dollars (\$100,000,000)~~ *two hundred twenty-five million dollars (\$225,000,000). Not more than twenty-five million dollars (\$25,000,000) may be encumbered, per fiscal year, from the fund, beginning with the fiscal year that begins July 1, 2010, and continuing through the 2017–18 fiscal year.*

(4) *Notwithstanding Section 13340 of the Government Code, beginning with the fiscal year that begins July 1, 2010, and continuing through the 2017–18 fiscal year, the money in the fund and the accounts within the fund are hereby continuously appropriated to the commission without regard to fiscal years for the purposes enumerated in subdivision (a). The funds shall be deposited in the following amounts in the following accounts for each fiscal year:*

(A) *Twenty million dollars (\$20,000,000) into the Broadband Infrastructure Grant Account.*

(B) *Two million dollars (\$2,000,000) into the Rural and Urban Regional Broadband Consortia Account.*

(C) *Three million dollars (\$3,000,000) into the Broadband Infrastructure Revolving Loan Funds Facility Account.*

(c) (1) ~~Any~~ *All* moneys appropriated from the California Advanced Services Fund to the commission may only be expended for the program administered by the commission pursuant to subdivision (a), including the costs incurred by the commission in developing, implementing, and administering the program and the fund.

(2) Notwithstanding any other law and for the sole purpose of providing matching funds pursuant to the federal American

1 Recovery and Reinvestment Act of 2009 (Public Law 111-5), any
2 entity eligible for funding pursuant to that act shall be eligible to
3 apply to participate in the program administered by the commission
4 pursuant to subdivision (a), if that entity otherwise satisfies the
5 eligibility requirements under that program. Nothing in this section
6 shall impede the ability of an incumbent local exchange carrier,
7 as defined by subsection (h) of Section 251 of Title 47 of the
8 United States Code, that is regulated under a rate of return
9 regulatory structure, to recover, in rate base, California
10 infrastructure investment not provided through federal or state
11 grant funds for facilities that provide broadband service and
12 California intrastate voice service.

13 *(d) Proposals for funding of the operations of the Rural and*
14 *Urban Regional Broadband Consortia shall meet the requirements,*
15 *procedures, and criteria to be established by the commission.*

16 *(e) The Broadband Infrastructure Revolving Loan Funds Facility*
17 *shall be available to a joint powers authority that is responsible*
18 *for administering and extending loans to qualified broadband*
19 *providers in accordance with the rules established by the*
20 *commission.*

21 ~~(d)~~

22 *(f) The commission shall conduct both a an interim and final*
23 *financial audit and a an interim and final performance audit of the*
24 *implementation and effectiveness of the California Advanced*
25 *Services Fund to ensure that funds have been expended in*
26 *accordance with the approved terms of the winning bids and this*
27 *section. The commission shall report its interim findings to the*
28 *Legislature by December 31, 2010. The commission shall report*
29 *its final findings to the Legislature by April 1, 2017. The report*
30 *reports shall also include an update to the maps in the final report*
31 *of the California Broadband Task Force.*

32 ~~(e)~~

33 *(g) This section shall remain in effect only until January 1, 2013*
34 *2018, and as of that date is repealed, unless a later enacted statute,*
35 *that is enacted before January 1, 2013 2018, deletes or extends*
36 *that date.*

37 SEC. 2. This act is an urgency statute necessary for the
38 immediate preservation of the public peace, health, or safety within
39 the meaning of Article IV of the Constitution and shall go into
40 immediate effect. The facts constituting the necessity are:

1 Numerous grant applications with merit have been filed seeking
2 funding through the California Advanced Services Fund, many of
3 these applications also seeking funding through the federal
4 American Recovery and Reinvestment Act of 2009 (Public Law
5 111-5), and these grant applications threaten to exceed the existing
6 financial limits of the fund. In order to relieve financial pressure
7 on the fund, enable meritorious projects to go forward, and to
8 prevent a potential disruptive effect on the grant process, it is
9 necessary that this act take effect immediately.

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